

Hawaiian Gazette

SEMI-WEEKLY.

FRIDAY, JULY 27, 1894.

TAKE it all in all, there was extraordinarily little bloodshed connected with the great railroad strike. In any other country the riots would have been suppressed at a vastly greater cost of life. In Germany the mobs would have been shot down in scores and hundreds. In France, the small bands of soldiers would have been simply wiped out of existence. The result is extremely creditable to the United States. The government there is so near the people, so thoroughly a government of the people, that violent opposition and bitter feeling between the authorities and the masses do not easily arise, and the outcome shows how strong after all such a government really is.

FALSEHOOD WILL OUT.

Readers of the Holomua should never be misled into believing its statements because they are made with an appearance of precision. The other day an article was published in that progressive leaflet arguing against building roads and developing the industries of the country. The article bristled with preposterous misstatements. For example, the sale of bonds since the revolution is put at \$103,000. The real amount is \$263,000. The expense of "placing the loan" is declared to be \$12,000. The real amount is \$4076. These are a fair sample of the Holomua's use of statistics.

Figures always lie, somehow, when they appear in the columns of the Holomua. The local tradition is probably too strong for them.

MASTERLY INACTIVITY.

The Councils of the Republic are meeting regularly every week but without transacting any business of note. This is altogether as it should be. There is no public demand for any law-making on the part of the Councils. They are continued in existence simply as a provision for emergency which will probably rarely arise. Ordinary legislation they should not attempt. To do so would be technically legal, certainly, but in spirit none the less a usurpation.

This does not apply to matters like the appointment of the labor commission proposed by Mr. Emmeluth. That will hardly be legislation in the ordinary sense but merely a provision for an inquiry which may or may not become the basis for future legislation.

We believe the members of the Advisory Council take the same view of their duties as that indicated above.

A TEMPEST IN A TEAPOT.

The Holomua has experienced another change of heart. It now declares that it means to rule or ruin, and it advises the natives to fight for their rights.

This little ebullition of temper should not be taken too seriously, and need not excite any great degree of alarm. It is one of those little tempests in a teapot which cheer, but do not inebriate—though they certainly suggest inebriation.

The cause of the Holomua's grief and rage is not far to seek. Yesterday a hack-driver by the name of James Quinn applied for a certificate of service, in order to qualify as a voter. The application was refused. Quinn, who, by the way, is not a bad fellow, happens just now to be a protegee of the Holomua's. "Hence these tears."

The reason why Mr. Quinn's application for a certificate was refused is not because the Government is wicked and malicious, as the Holomua contends, but simply because he does not satisfy the requirements of Section 2, Article 17, of the Constitution.

THE STRIKE.

The news that the great railroad strike is breaking up and that the transportation business of the United States can be resumed, will be hailed gladly by all friends of law and order. The disorderly movement which has cost millions of money and destroyed a number of lives, was not properly a strike at all, but a boycott. The Pullman workers had a perfect right to strike if they were dissatisfied with their wages. When, however, they induced railroad employees all over the United States to assist them in an effort to coerce the Pullman Company by destroying the property of innocent persons and visited thousands with ruin, they did a thing which was without any color of right. The boycott has not injured Mr. Pullman in the least, but it has caused immeasurable loss, and in many cases ruin, to the farmers of California and to producers and shippers all over the Union. The action of the boycotters has been in principle exactly the same as that of the bomb-thrower. The bomb-thrower does not pick out the guilty and blow them up. He destroys the innocent, with the intention of terrorizing society and thus frightening his enemies into granting him what he considers his rights. So the boycotter says, "If you will not give me what I want, I will injure the business and destroy the property of everybody."

Such methods as have prevailed in the United States during the past weeks cannot possibly advance the cause of the laboring man. They will simply hasten a conservative reaction.

The following editorial in the Outlook contains an admirable statement of what we conceive to be the truth about the strike. It should be thoroughly digested. The Outlook, be it remembered, is a journal very friendly to working men.

The issue is not whether the Pullman Car Company ought to have submitted to arbitration the question what wages it should pay to its employees. It is whether the American Railway Union shall determine when, under what conditions, on what railroads, and in what sort of cars the people of the United States may travel. The Pullman Car Company decided that they could not afford to pay the former rate of wages to their employees. Their employees decided that they would not work for less. Thereupon the Pullman Car Company decided that it would cease work for the present. For this avowed reason, and for no other, the American Railway Union, an organization of switchmen, brakemen, firemen, and a few engineers and conductors, has decided that no railroad shall carry any Pullman car on its trains until the Pullman Car Company reopens its works and re-employs its workmen. We repeat that the issue now is not between the Pullman Car Company and its employees; it is not even between the great railroads and their employees; it is between the American Railway Union and the American people.

The issue has only to be stated in another form to be perfectly clear. Suppose the railroad employees had asked Congress to pass a law prohibiting all use of Pullman cars on Interstate Commerce lines until the Pullman Car Company re-opened its works and re-employed its workmen; with what derision would the proposition have been received? But what they would have then attempted to do by lawful means they are now attempting to do by unlawful means; that is the whole difference.

Until the right of the American people to use the highways of the nation is settled, all other questions should stand to one side. Tariff, income tax, silver question, woman suffrage, are insignificant compared with the question, are we a free people? The railway corporations will have the sympathy and support of substantially the entire nation in this issue until it is settled, and settled right. It would be better to ride in common cars, freight-cars, cattle-cars, platform cars, or not ride at all, than to live under a social system which leaves the question whether we may ride, and when and how we may ride, to be determined by an irresponsible organization, formulating its decrees by secret committee and enforcing them by mob violence. We can live without railroads, as our fathers did before us; but we will not live without liberty.

It is the paramount duty of every railroad official to stand for the right of an unimpeded traffic on his railroad line. He is standing for the rights of the American people. It is the duty of every stockholder, and bondholder to submit to any possible diminution of profits. Bankruptcy is better than despotism; and the word despotism is that which masquerades under the guise of democracy. It is the duty of every mayor, police officer, sheriff, governor, and, if necessary, of the President of the United States, to protect with all the powers at their command the right of the American people to freedom of travel on their own highways. And it is the duty of the public to submit to any and every inconvenience rather than yield for an instant to the doctrine that our freedom of traffic is dependent upon the pleasure of the American Railway Union.

A VAIN ATTEMPT.

The statement is made that a prominent Chinese, who was naturalized some years ago will present himself today as a candidate for registration. If the application is refused he will seek relief in the courts, the object being to make a test case.

Article 74 of the Constitution says: "In order to be eligible to vote for representatives a person shall,

"Be a male citizen of the Republic; and if naturalized prior to January 17, 1893, be a native of a country having or having had treaty relations with Hawaii; or

"Have received special letters of denization entitling him to all the privileges of Hawaiian citizenship; or

"Have received from the Minister of the Interior the certificate of service herein provided for."

As China has not, or never has had any treaty with Hawaii, it is plain that no Chinese can vote even although he has become an Hawaiian citizen. It may appear to some persons that there is some injustice in this, but if so, it is chargeable to the new Constitution, which makes no difference in the status of Chinese citizens. They remain just where they were under the Constitution of 1887, entitled to all the rights, privileges and immunities of any other class of citizens, always excepting the right to vote.

We do not, however, conceive that there is any injustice whatever in excluding Chinese from the ballot. The voter must be one who takes part in the life of the State, who is an essential part of the community of whose social life the State is simply an expression. The political community should be homogeneous. This does not mean that it may not be composed of different races, but it does mean that these races must have attained to an ideal unity. They must be morally fused, have a common life, common ambitions, and share the same political hopes and aims. The different elements of a true political society may quarrel certainly, but their quarrels must be family quarrels.

The Chinese is an alien in Hawaii, as he is everywhere away from the land of his birth. He brings the Orient with him. Everywhere—in Australia, the United States, Brazil—wherever he wanders, he is forever the same, wearing the same clothes, nursing the same ideas, abiding by the same religion. He sticks close to fact, follows the past, and trends in the steps of his forefathers. The race-type is persistent, and it is the type of the born materialist and conservative.

How can the representative of such a race as this consider himself wronged because political societies whose ideal he neither understands nor values, decline to admit him to a full membership? Fundamentally he is not excluded, but excludes himself. There are race prejudices, of course, but they are not as strong as the rising spirit of democracy. Whenever Chinese, in this country or the United States, acquire the characteristics which are necessary to the free citizens of a free state, they will be admitted to vote, and no power on earth will be strong enough to prevent it.

We have no purpose to reflect injuriously upon the Chinese. They are a people of many remarkable qualities which invite imitation and not criticism. As residents of Hawaii, they have been peaceable and industrious, and have played a useful, though nowadays somewhat too aggressive part, in the development of the country.

According to private advices from Washington, the Hawaiian treaty might not have been saved in the general crash of the Wilson bill, if this country had still been under a monarchy. Sympathy with a young Republic seems to have been a sentiment actively felt and freely expressed in the Senate.

The Daily Advertiser, 75 cents a month. Delivered by Carrier.

A LABOR COMMISSION.

Mr. Emmeluth yesterday presented a resolution in the session of the Councils calling for the appointment of a commission to investigate the labor question. No action was taken on the resolution, but it was made the order of the day for the session next week.

Mr. Emmeluth's idea is an excellent one, and it should be carried out without delay. The matter should be carried, however, further than he seems to contemplate, and a bill should be introduced authorizing the appointment by the President of such a commission to report to the session of the Legislature which will probably be held before the close of the present year. The commission should be composed of five or perhaps seven members, representing the agricultural, mercantile and mechanical industries, and the greatest care should be employed in its selection. It must be composed of energetic men who are intensely interested in getting the problem solved, if anything is to be accomplished.

The commission should be given the power to administer oaths and compel the attendance of witnesses. Ample funds should be placed at its disposal, so that the other islands can be visited, plantations having unique labor features inspected, and evidence obtained which would not be available in Honolulu. The labor systems in vogue at Ewa, Waialae and Honoumuli should be thoroughly studied. The commission should obtain statistics upon the cost of sugar production, and the proportion borne by the wages of labor to the total cost. The question of the relative efficiency of Chinese, Japanese and Portuguese labor should be thoroughly investigated, and all the expert testimony obtained which is to be had. Possibly the commission will be able to find out whether there is any good reason why white men should be unwilling to work on the plantations.

The foregoing indicates in a hasty and imperfect way something of what the Labor Commission will have to do, if its inquiries are to be of any value to the public. It must, in a word, collect and digest a larger mass of information on the conditions affecting labor in this country than any man now possesses. If it does not do this, its recommendations will have very little weight. There are two opposing opinions on the labor question here—one affirms and the other denies that our industries can be carried on without the aid of Asiatics. One says Hawaii must be, the other that it never can be a "white man's country." Let the Commission obtain the data to settle this dispute.

The final duty of the Commission, having collected all the facts, will be to make a report to the Legislature embodying definite, positive and practical recommendations. The Government proposes to evolve a comprehensive land system; let the Commission match it with a worthy labor system. This is no easy task, but there are possibly men in the country who can do it. There are, at any rate, men who can grapple with it bravely, whether they are thrown or not. One thing is certain, and that is that labor in Hawaii must get upon a more satisfactory basis than the present if an abiding civilization is to flourish in these seas.

Let Mr. Emmeluth be ready next Thursday with a bill. If it passes and a Commission is appointed immediately, it will probably have four or five months to work in before the Legislature meets.

The course of President Cleveland in the strike has been prompt and courageous. While the demagogue who happens to be Governor of Illinois was bidding for votes, Mr. Cleveland was using the power of his position to restore order in the United States.

Only those who have seen "The Convention Proceedings" know its worth. It is a faithful report of everything relating to the late Convention; it also contains the Constitution as adopted. Send a copy to your friends abroad.

LOCAL BREVITIES.

Rudolph Spreckels left for the Coast on the Alameda.

The excursion to the Volcano seems to have "caught on."

At last accounts Minister Damon was at Seattle waiting for transportation.

The yachts Britannia and Vigilant have been matched to race at Cowes in August.

Minister King is Minister of Finance *ad interim*, Minister Damon being absent.

President Dole and P. C. Jones paid an unofficial visit to the Philadelphia yesterday.

The French cruiser Duquay Trouin will probably arrive here about August 4th.

The Scottish Thistle Club gives a concert and ball at its new hall a week from tonight.

Mr. McInerney and his daughter left on the Alameda yesterday for a visit to San Francisco.

At last accounts sugar was quoted at 3 3/16 cents, a slight advance since last advices.

Admiral Walker will leave this morning for the other side of the island, returning tomorrow.

William Henry has been appointed deputy tax assessor and collector for the district of Koolau-poko.

Frank L. Hoogs is organizing an excursion to the volcano. The party will leave on the next Kin-nau, leaving here on August 3d.

The Canadian Pacific Railway is distributing a large amount of reading matter descriptive of its route to Honolulu people.

Captain Morse of the Alameda stated yesterday, that he saw the electric lights of the city fifteen miles off port on Wednesday night.

Robert Lewers expects to soon leave for Hilo on a brief visit. He will return to town on the vessel named after him. She is expected at Hilo shortly with a cargo of lumber.

All commissions held under appointment by the Government will be null and void after the 1st of September. Those desiring to be re-appointed should notify the Government at once.

C. S. Bradford authorizes the statement that he is no longer connected with the San Francisco Chronicle as special correspondent at Honolulu, having resigned that position on June 1st last.

Today is the birthday of Kong Sui, the Emperor of China. Prominent Chinese will receive at the rooms of the United Chinese Society, where all the Government and diplomatic officers will probably call.

According to a late Sydney paper the Canadian line of steamers running between Sydney and Vancouver via this port, has virtually been given a twenty years' contract by Canada for carrying the mails.

Two large packages of seeds of valuable trees were received by Mr. Marsden yesterday. One was sent by the Curator of the Government Museum at Auckland, and the other by the Government Botanist at Brisbane.

About fifty Samoans who took part at the Midwinter Fair are tied up at Portland, Ore., awaiting railroad transportation. They are to be an important feature with Barnum and Bailey's circus during the coming season.

Commissioner of Agriculture Marsden heard from Prof. Koebele yesterday. The professor sent another colony of bugs. When the letter was written he was at Mareeba, Queensland, busily searching for quiet destroyers.

Al Ellinghouse, late manager of Stockwell's Theater at San Francisco, is expected down on the return of the Australia. He will be accompanied by J. Franklin Brown, the well known hypnotist, who will give a few exhibitions here.

It is said that a prominent Chinese who was naturalized under the monarchy, intends to present himself for registration, and if the Registration Board refuses to place his name on the register, he will take the matter into the courts and make a test case of the matter.

Some time ago the Paradise of the Pacific offered a prize for the best short story on Hawaiian life. The prize, which is an album of views contributed by J. J. Williams, has been awarded to James W. Girvin. The story will appear in the next number of the journal named.

In the Supreme court of the Hawaiian Islands.

JUNE TERM, 1894.

THE PROVISIONAL GOVERNMENT OF THE HAWAIIAN ISLANDS V. JOSEPH CAECIRES.

BEFORE JUDD, C. J., BICKERTON, AND FREAR, J. J.

- (1) An indictment charging that "one A. B. * * * C. D. did assault, strike, cut, &c., is not bad on the ground that the object comes before the verb."
- (2) Under the statute making murder of two degrees (Chap. 71, Laws of 1890), the omission in the indictment of the words "deliberate, premeditated" before the word "malice" charges murder in the second degree.
- (3) Where the second count in the indictment fully and plainly sets out the manner and means by which the death was caused, it does not become necessary to consider whether the first count, which is the form authorized by statute (page 342 of Compiled Laws), is contrary to Article 7 of the Constitution of 1887.
- (4) Chapter 49 of the Penal Code (Sec. 5) authorizes an arrest without a warrant by an officer of justice in a seaport or town when the defendant is found under such circumstances as would justify the suspicion that he has committed or intends to commit an offense.
- (5) If the defendant attempts to escape, the officer is authorized to detain him, and if the officer is immediately attacked by defendant with a dangerous weapon, allowing no opportunity for the officer to declare that he is an officer of justice, this fact alone does not render him a trespasser.
- (6) The law does not require that a person attempting to escape from an officer should be notified of his official character before the officer places his hand upon him. The notification may be coincident with the placing the hand on the defendant and may not be made at all if the circumstances render this impossible.
- (7) Deputy Clerks of the Judiciary Department are Clerks of the Circuit Court, First Circuit, and as such are authorized with a Circuit Judge to draw juries.
- (8) Queen v. Leong Man, 8 Haw. 339, affirmed.
- (9) In a case not capital it is within the discretion of the Court to allow the jury to separate during the trial.
- (10) The jury must be satisfied that the deceased came to his death as a consequence of the wounds inflicted by the defendant.
- (11) Instructions not pertinent to the facts of a case need not be given.

OPINION OF THE COURT BY JUDD, C. J.

The defendant was indicted at the May Term, 1894, of the Circuit Court, First Circuit, for murder in the second degree in killing one James Kaubane on the 19th of February, 1894. He was found guilty by the jury and sentenced. Before pleading, his counsel, J. A. Magoon, Esq., moved to quash the indictment on several grounds.

The indictment is as follows: "The Attorney-General of the Hawaiian Islands, on behalf of the Provisional Government of the Hawaiian Islands, upon his official oath, presents that Joseph Caecires, a foreigner by birth, of Honolulu, in the island of Oahu, at Honolulu in the island of Oahu, and within the jurisdiction of this Honorable Court, on the nineteenth day of February, in the year of our Lord One Thousand Eight Hundred and Ninety-Four, with force and arms, feloniously, wilfully and of his malice aforethought, and without authority, justification or extenuation by law did kill and murder one James Kaubane, and did then and there and thereby commit the crime of murder in the second degree contrary to the form of the statute in such case made and provided."

And so the Attorney-General aforesaid, upon his official oath aforesaid, doth further say and present that the said Joseph Caecires, a foreigner by birth, of Honolulu, in the island of Oahu, at Honolulu in the island of Oahu, and within the jurisdiction of this Honorable Court, on the nineteenth day of February in the year of our Lord One Thousand Eight Hundred and Ninety-Four, with force and arms, in and upon one James Kaubane, feloniously, wilfully and of his malice aforethought without authority, justification or extenuation by law, did make an assault with a certain knife, and there did strike, stab, cut, wound and beat the said James Kaubane certain mortal wound or wounds, of which said mortal wound or wounds the said James Kaubane, from the said nineteenth day of February to the twentieth day of said February, at Honolulu aforesaid, did suffer and languish, and languishing did live, on which said twentieth day of February aforesaid, in the year aforesaid, at Honolulu aforesaid, he, the said James Kaubane, of the wound or wounds aforesaid, died."

And so the Attorney-General aforesaid, upon his official oath aforesaid, doth say and present that the said Joseph Caecires, him the said James Kaubane in manner and form aforesaid, then and there, feloniously, wilfully and of his malice aforethought, and without authority, justification or extenuation by law, did kill and murder, and did then and there and thereby commit the crime of murder in the second degree, contrary to the form of the statute in such case made and provided."

The motion to quash is as follows: "Now comes defendant in the above entitled cause by his attorney J. Alfred Magoon, and moves to quash the indictment therein for the reasons:

- 1st. That it is not alleged in said indictment that the defendant did strike, stab, cut, wound and beat James Kaubane.
- 2d. That it is not alleged in said indictment that the wounds of which said Kaubane died were inflicted by a knife in the hand of and wielded by defendant.
- 3d. That the description of the crime of which defendant is charged in said indictment is murder in the second degree, whereas the said indictment purports to be for murder in the second degree.